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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/667,672      | 09/23/2003  | Akiko Sakai          | 67161-101           | 9098             |

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MCDERMOTT, WILL & EMERY  
600 13th Street, N.W.  
Washington, DC 20005-3096

EXAMINER

RODRIGUEZ, PAUL L

| ART UNIT | PAPER NUMBER |
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2125

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/667,672

Applicant(s)

SAKAI, AKIKO

Examiner

Paul L. Rodriguez

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/23/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

1. Claims 1-8 are presented for examination.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 1 recites the limitation "said lot" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim. Previously the claim recites "a lot unit basis", which is not considered a lot.

5. Claim 1 recites the limitation "said lots" in line 6. There is insufficient antecedent basis for this limitation in the claim. Previously "a lot unit basis" and "said lot", no previous reference to plural "lots".

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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7. Claims 1, 2, 5 and 6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims as recited are directed simply to an abstract idea, while the products and the lots are physical items, the management method is managing the flow of these items, and therefore the method could be performed by a person using a pencil and paper and through mental steps or a thought process. An amendment placing the term “A computer implemented production management method...” would place the claimed invention into statutory format.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Aoki (U.S. Pat 5,295,066). The claimed invention reads on Aoki as follows:

Aoki discloses (claim 1) a production management method for managing a production process of producing products on a lot unit basis (abstract, col. 1 line 46 – col. 2 line 32), comprising the steps of pre-storing production information including a delivery date of said lot, a process amount, a term of work (reference number 2, 6, figure 2, col. 3 lines 6-14), and operating states and production capabilities of a manufacturing apparatus (reference number 3, 7, figure 3,

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col. 3 lines 15-30), calculating a delivery date prediction for each of said lots on the basis of said production information (figure 6, S2, S4, col. 4 lines 17-50) and determining whether or not there is a delay in each of said lots on the basis of the delivery date prediction and the delivery date (S5, col. 4 lines 51-63), outputting an alarm for a lot having a delay (col. 3 line 59 – col. 4 line 12, col. 4 lines 57-63, reference number 5), and analyzing the cause of the delay and instructing a proper countermeasure for the cause of the delay when the degree of the delay is higher than a predetermined degree (abs, col. 1 lines 30-44, col. 4 lines 57-63, if a delay is determined, inherent that it is higher than a predetermined degree), (claim 2) said production process includes a plurality of processes; and the method further comprises the step of calculating an updated delivery date prediction for each of said lots on the basis of production information in the present process and subsequent processes and determining the presence or absence of a delay on the basis of the updated delivery date prediction and the delivery date for each of said lots (col. 1 lines 46-59, “at every process”). Examiner would like to point out that any reference to specific figures, columns and lines should not be considered limiting in any way, the entire reference is considered to provide disclosure relating to the claimed invention.

10. Claims 1-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Fukuda et al (U.S. Pat 6,546,300). The claimed invention reads on Fukuda et al as follows:

Fukuda et al discloses (claim 1) a production management method for managing a production process of producing products on a lot unit basis (col. 2 lines 11-59), comprising the steps of pre-storing production information including a delivery date of said lot, a process amount, a term of work (col. 5 lines 15-45) and operating states and production capabilities of a

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manufacturing apparatus (col. 10 lines 6-15), calculating a delivery date prediction for each of said lots on the basis of said production information and determining whether or not there is a delay in each of said lots on the basis of the delivery date prediction and the delivery date (col. 2 lines 42-45, col. 8 lines 34-47, col. 9 lines 49-67), outputting an alarm for a lot having a delay (col. 7 line 58 – col. 8 line 57, col. 9 lines 15-47), and analyzing the cause of the delay and instructing a proper countermeasure for the cause of the delay when the degree of the delay is higher than a predetermined degree (figure 8, 9, col. 7 lines 62-65, col. 8 line 58 – col. 9 line 3), (claim 2) said production process includes a plurality of processes, and the method further comprises the step of calculating an updated delivery date prediction for each of said lots on the basis of production information in the present process and subsequent processes and determining the presence or absence of a delay on the basis of the updated delivery date prediction and the delivery date for each of said lots (col. 10 line 1 – col. 11 line 58), (claim 3, 4) extracting a lot which is not delayed and of which allowance of the delivery date prediction to the delivery date is larger than a predetermined allowance from said lots and temporarily ceasing progress of the extracted lot (col. 7 lines 21-34), (claim 5-8), determining a lot in two or more lots having a delay, to which a priority is given (col. 7 lines 27-29). Examiner would like to point out that any reference to specific figures, columns and lines should not be considered limiting in any way, the entire reference is considered to provide disclosure relating to the claimed invention.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fargher et al (U.S. Pat 5,586,021) in view of Hohkibara et al (U.S. Pat 6,438,436).

Fargher et al teaches (claim 1) a production management method for managing a production process of producing products on a lot unit basis (abstract) comprising the steps of pre-storing production information including operating states and production capabilities of a manufacturing apparatus (reference number 28), calculating a delivery date prediction for each of said lots on the basis of said production information (col. 4 lines 43 – 49, col. 12 line 65 – col. 13 line 5) and determining whether or not there is a delay in each of said lots on the basis of the delivery date prediction and the delivery date (col. 7 lines 56-62), outputting an alarm for a lot having a delay (col. 5 lines 40-58), and analyzing the cause of the delay and instructing a proper countermeasure for the cause of the delay when the degree of the delay is higher than a predetermined degree (col. 5 lines 50-57, col. 7 lines 53-56, col. 8 lines 45-54, col. 9 lines 13-20), (claim 2) wherein said production process includes a plurality of processes, (col. 2 lines 23-31), (claim 3,4) extracting a lot which is not delayed and of which allowance of the delivery date prediction to the delivery date is larger than a predetermined allowance from said lots and temporarily ceasing progress of the extracted lot (col. 9 lines 13-20, col. 10 lines 14-21), (claim 5-8) determining a lot in two or more lots having a delay, to which a priority is given (col. 9 lines

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13-20, col. 10 lines 14-21). Examiner would like to point out that any reference to specific figures, columns and lines should not be considered limiting in any way, the entire reference is considered to provide disclosure relating to the claimed invention.

Fargher et al fails to teach pre-storing a delivery date of said lot, a process amount, a term of work, and the method further comprises the step of calculating an updated delivery date prediction for each of said lots on the basis of production information in the present process and subsequent processes and determining the presence or absence of a delay on the basis of the updated delivery date prediction and the delivery date for each of said lots.

Hohkibara et al teaches (claim 1) a production management method for managing a production process of producing products on a lot unit basis (abstract), comprising the steps of pre-storing production information including a delivery date of said lot, a process amount, a term of work (reference numbers 114, 124, 134) and operating states and production capabilities of a manufacturing apparatus (reference numbers 13, 115, 123, 125, 133, 135), calculating a delivery date prediction for each of said lots on the basis of said production information (col. 6 lines 19-21), and determining whether or not there is a delay in each of said lots on the basis of the delivery date prediction and the delivery date (col. 2 lines 17-40, col. 2 line 65 – col. 3 line 25), and analyzing the cause of the delay and instructing a proper countermeasure for the cause of the delay (col. 9 line 45 – col. 10 lines 7) (claim 2) production process includes a plurality of processes (figure 5), and the method further comprises the step of calculating an updated delivery date prediction for each of said lots on the basis of production information in the present process and subsequent processes and determining the presence or absence of a delay on the basis of the updated delivery date prediction and the delivery date for each of said lots (col. 4



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lines 23-65, col. 6 lines 6-21), (claim 5-8) determining a lot in two or more lots having a delay, to which a priority is given (col. 3 lines 1-10). Again, any reference to specific figures, columns and lines should not be considered limiting in any way, the entire reference is considered to provide disclosure relating to the claimed invention.

Fargher et al and Hohkibara et al are analogous art because they are both related to management of a production line.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the pre-stored a delivery date of said lot, a process amount, a term of work, and the updated delivery date predictions of Hohkibara et al in the method of Fargher et al because Hohkibara et al teaches a high efficient production planning system and method which minimizes influences on lot processing schedules (col. 2 lines 43-53) and a method that improves the performance or efficiency of a processing machine (col. 2 lines 1-7).

### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Lilly et al (U.S. Pat 5,787,000) – teaches a scheduling method for managing work orders which may be used to determine a proposed delivery date.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul L. Rodriguez whose telephone number is (571) 272-3753. The examiner can normally be reached on 6:00 - 4:30 T-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo P. Picard can be reached on (571) 272-3749. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Paul L. Rodriguez  
Primary Examiner  
Art Unit 2125

PLR  
7/22/05